

Application No. 09/936,959
Applicants: Herbert Schultze et al.
Amendment in Response to Office Action dated September 4,



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REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the amendments above and the following comments.

Claims 1-15 are pending. Claim 11 has been deemed allowable. Amendments have been made to claims 1-12 strictly for sake of clarity and readability. No change in scope of the claims results from these amendments.

Objections to the Specification

The Examiner objected to the specification for informalities and to the abstract. In response, the Applicants have canceled the matter referring to the claims in the specification. A new abstract has been substituted in place of the former. The new abstract is one paragraph and less than 150 words.

Rejections under 35 U.S.C. 102

The Examiner rejected claims 1-4, 6-10 and 12 under 35 U.S.C. 102(b) as being anticipated by Link et al. (U.S. Patent No. 5,906,837). The Examiner found Link to teach a device for producing pressed articles.

In response, Applicants would remind the Examiner that anticipation requires that each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference, and, further, that the absence in the prior art reference

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of even a single claim element precludes a finding of anticipation. *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). The Examiner alleges Link teaches the instantly claimed invention. Applicants point out that Link does not teach a rotatable punch which rotates at a *defined point of a pitch circle of the punch circumference* in response to an external component. Link contemplates regulatory units (17-20) for the movement of the punches (2,3). However, Applicants submit there is no teaching in Link of punches that are rotated at a *particular spot* on their circumferential paths on a *defined* rotational movement as exerted by the regulatory units. Rather, Link only provides a general teaching wherein at column 5, lines 62-63, the reference recites "coordinated rotating movement of the top punch (2) is initiated via the regulating unit (17), the angle measurement system (12) and the rotary drive (5)". Applicants point out that the punches in Link cooperate with an external motor drive for its rotational movement. Nowhere does Link teach the regulating units operating the punches in such a way that the punches rotate at a *defined point* of a pitch circle. Accordingly, since Link does not teach a punch being rotatable by an "external component" which has "a force-locking or a positive locking effect in such a way that the punch rotates at a defined point of a pitch circle of the punch circumference", the claims are not anticipated.

In view of the foregoing, Applicants submit that the Examiner would be fully justified to reconsider and to withdraw this rejection. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

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Rejections under 35 U.S.C. 103

The Examiner rejected claim 5 under 35 U.S.C. 103(a) as being obvious over Link et al. in view of Barna (U.S. Patent No. 4,487,566). Link fails to disclose a seal between the punch and the punch shaft. The Examiner found Barna to teach a punching tool, wherein a seal member is disclosed. The Examiner found it would have been obvious to modify Link by providing a seal member as taught by Barna to obtain the instantly claimed invention.

In response, there must be some suggestion or motivation, either in the reference of knowledge generally available to a person skilled in the art to modify the teaching of the reference. See *MPEP* §2143. Regarding claim 5, Applicants point out that because the limitations of the base claim are incorporated into the dependent claims by reference, the limitations of claim 1 as discussed above cannot be overcome by a seal as allegedly taught by Barna. Wherefore, claim 5 is not rendered obvious by Link and Barna.

In view of the foregoing, Applicants submit that the Examiner would be fully justified to reconsider and to withdraw this rejection. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited.

Conclusion

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

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Applicants also believe that this application is in condition for immediate allowance.
However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested
to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be
promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,

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By 

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment under 37 CFR § 1.111 (13 pages total) is being
facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date:

By 

David D. Kim

Bruce S. Londa